

REMARKS:

REGARDING THE DRAWINGS:

All referenced elements that are signified in the drawings are also now similarly signified in the specification of the present Application with corresponding reference numerals. Further, all referenced elements in the specification of the Application are also now similarly signified in the replacement drawing sheets included herewith in compliance with 37 C.F.R. §1.84. No new matter has been added.

REGARDING THE SPECIFICATION:

Typographical errors have been corrected and minor amendments made for correspondence between the drawings and description. No new matter has been added.

REGARDING THE CLAIMS:

Without disclaimer or prejudice to later prosecution, claims 1-7 have been cancelled. Typographical errors have been amended in claims 14 and 19. No new matter was added.

IN RESPONSE TO THE OFFICE ACTION:

REJECTION UNDER 35 U.S.C. § 102(b):

The Examiner argues that Claims 1-7 of the present Application are rejected under 35 U.S.C. §102(b) as being anticipated by US 5,546,705 (hereinafter *Hirtsiefer*). However, in light of said claims' cancellation, the rejection is presently moot.

REJECTION UNDER 35 U.S.C. § 103(a):

The Examiner argues that claims 8-29 of the present Application are rejected under 35 U.S.C. §103(a) as being unpatentable over *Hirtsiefer* in view of US 3,640,423 (hereinafter *Parker et al.*). The pending independent claims read as follows:

8. (Original) A vehicular mountable cargo container (10) comprising:

a top portion (30) of said vehicular mountable cargo container hinge-connected for pivotation relative to a bottom portion (32) of the cargo container between open and closed configurations;

a pair of spring-biased struts (50), each operatively interposed between said top and bottom portions of said vehicular mountable cargo container, and one each of said pair of spring-biased struts located at opposed end regions of the cargo container;

each of **said pair of spring-biased struts being configured to exclusively deliver an assisting expansion force between the top and bottom portions of the cargo container for urging the container toward the open configuration.**

14. (Amended) A method for providing and controlling operation of a dual sided opening roof mount cargo box (10) for a carrying vehicle, said method comprising:

providing a dual sided opening roof mount cargo box (10) having a lid portion (30) releasably hinge-connected at two lateral sides to a bottom portion (32) of said cargo box (10) for alternate pivotation at each of the two lateral sides between open and closed configurations, said bottom portion (32) being adapted to be mounted to a carrying vehicle and said lid portion (30) being manufactured from a semi-flexible material sufficiently pliable to permit two opposite end regions thereof to be at different relative distances from the bottom portion (32) of the cargo box (10) during transition between the open and closed configurations;

providing a pair of spring-biased struts (50), each operatively interposed between said lid portion (30) and said bottom portion (32) of said cargo box (10), and one each of said pair of spring-biased struts (50) being located at said two opposite end regions of said cargo box; and

imposing an expansively directed force on said lid portion (30), utilizing said pair of spring-biased struts (50), across a substantial entirety of travel of said lid portion (30) during operator induced movement from said closed configuration to said open configuration and thereby assisting the operator to smoothly open said cargo box (10).

Examiner has cited *Hirtsiefer* regarding the claimed struts and *Parker et al.* regarding the claimed dual sided opening cargo box. However, applicants respectfully assert that *Hirtsiefer* discloses the use of struts that develop a **closing-assist** force between the top and bottom portions of the cargo box tending to close the cargo box. *Hirtsiefer* describes that to achieve the necessary closing force of the closing element relative to the container, it is proposed that, with reference to the connecting line, the eccentricity and thus the effective lever arm of the pressure spring in the position of the arms corresponding to the closed position and the spring characteristics of the pressure spring are preferably based on the required closing force (*Hirtsiefer* @ column 2, lines 1-7; *See also* column 1, lines 40-43; column 1, lines 57-61; column 4, lines 30-32; and Claim 3).

In the present application, independent claim 8 recites that "each of said pair of spring-biased struts being configured to *exclusively deliver an assisting expansion force* between the top and bottom portions of the cargo container for urging the container toward the open configuration" (*See* Claim 8). Alternatively, independent method claim 14 recites "imposing an **expansively directed force** on said lid portion (30), utilizing said pair of spring-biased struts (5), **across the substantial entirety of travel of said lid portion** during operator induced movement from said closed configuration to said open configuration and **thereby assisting the operator to smoothly open said cargo box (10)**" (*See* Claim 14).

As indicated above, these claimed features are not disclosed, taught or suggest in either *Hirtsiefer* or *Parker et al.* As background, and as explained in the present specification, one objective of the presently claim invention is to avoid/prevent undesirable torquing or twisting of the lid of the cargo box which can be caused by the existence of both an opening spring force when in the range of motion approaching the open configuration and, an opposite direction, closing spring force when in the range of motion approaching the closed configuration. To avoid such mal-performance, "each of the pair of spring-biased struts is configured to avoid or prevent the delivery or imposition of a closing-assist force between the top and bottom portions of the cargo container that would urge the container towards the closed configuration" (paragraph [0015], lines 3-7; *See also* Claims 9, 10 and 27).

Oppositely, the spring-biased strut disclosed in *Hirtsiefer* does not exclusively deliver an expansion force between the top and bottom portions of the cargo container. The spring-biased strut disclosed in *Hirtsiefer* actually transitions between forces that tend to urge the box halves

apart toward the open configuration and forces that tend to urge the box halves together toward the closed configuration (*See* column 1, lines 58-62; *See also* column 1, lines 40-43; column 1, lines 57-61; column 4, lines 30-32; and Claim 3), which is one object of the present Application to avoid.

At least four further features are recited in the claims of the present application that are not disclosed, taught or suggested in *Hirtsiefer* or *Parker et al.* and including: i.) the spring biased struts do not apply a closing assist force (paragraph [0015], lines 3-7; *See also* Claims 9, 10 and 27); ii.) the pair of spring-biased struts are configured to perform in substantial unison, thereby urging maintenance of a parallel orientation of the top portion relative to the bottom portion of the cargo container when transitioned by the operator between the open and closed configurations (*See* paragraph [0015], lines 8-15; Claims 11, 12, 28 and 29); iii.) the magnitude of the opening force imparted by the spring-biased struts is substantially equal to the weight of the lid (*See* paragraph [0016], lines 4-5; Claim 16); and iv.) the spring-biased strut does not transition between forces that tend to urge the box halves apart toward the open configuration and forces that tend to urge the box halves together toward the closed configuration (paragraph [0016], lines 6-10; *See also* Claims 8 and 14).

The Applicants respectfully assert that one of ordinary skill in the art reading the disclosure in *Hirtsiefer* in view of *Parker et al.*, even in combination, would not find it obvious to provide a spring-biased strut configured such that a closing-assist force was not exerted as the operator transitioned between the open and closed configurations. In fact, one of ordinary skill in the art reading the disclosure in *Hirtsiefer* in view of *Parker et al.* would specifically provide a spring-biased strut that delivered both an opening and a closing-assist force, as is taught in *Hirtsiefer*, (*See* column 2, lines 1-7; column 1, lines 40-43; column 1, lines 57-61; column 4, lines 30-32; and Claim 3) and is a direct teaching away from the presently claimed invention.

Furthermore, Applicants disclose German Utility Model *DE 299 03 503 U 1* (hereinafter *DE 299 03 503 U 1*), which discloses a controller for a downward opening lid embodied in a spring-biased strut. The spring-biased strut disclosed in *DE 299 03 503 U 1* provides an effect whereby the lid is drawn into a closed position (page 2, line 4). In order to prevent the undesired torquing or twisting of the lid of the cargo box, the present Application requires that no closing-

assist force is applied by the spring-biased strut during transition from the open to the closed configuration (*See* paragraph [0015], lines 3-7 *See also* Claims 8, 9, 10, 14 and 27).

DE 299 03 503 U 1 discloses a second position of the spring-biased strut, in which the arms are at the smallest angles with respect to each other, and the support strength decreases, so that smooth closing is guaranteed (page 3, lines 2-4). The spring-biased strut disclosed in the present Application does not transition between forces that tend to urge the box halves apart toward the open configuration and forces that tend to urge the box halves together toward the closed configuration (paragraph [0016], lines 6-10; *See also* Claims 8 and 14 of the present application).

DE 299 03 503 U 1 further discloses a closed position or a type of resting place set up that has to be overcome with force when opening, i.e. moving toward angle A (page 5, lines 15-17). The present Application discloses an expansively directed force controlled through configuration of a pair of spring-biased struts, to have a substantially zero magnitude when the lid portion is in the closed configuration. This feature avoids fatigue being induced at the strut-engaging portions of the lid portion and bottom portion of the cargo box (paragraph 36, lines 12-18; Claim 18 of the present application).

The present Application discloses three key features that are necessary to avoid mal-performance of the cargo box, and that are not disclosed in *DE 299 03 503 U 1* namely: i.) the spring biased strut does not apply a closing assist force; ii.) the spring-biased strut does not transition between forces that tend to urge the box halves apart toward the open configuration and forces that tend to urge the box halves together toward the closed configuration (*See* Claims 8 and 14); and iii.) the spring-biased struts apply a force with a magnitude substantially equal to zero in the closed configuration (paragraph 36, lines 12-18; Claim 18).

The Applicants respectfully assert that *DE 299 03 503 U 1*, does not disclose these above mentioned features, and in fact requires that a closing assist force be applied by the spring-biased strut, and that a force be exerted by the spring-biased strut in the closed configuration. Therefore, it would not be obvious to one of ordinary skill in the art to provide the claimed spring-biased strut in the present Application, by reading the disclosure provided in *DE 299 03 503 U 1*, and infact, *DE 299 03 503 U 1* therefore teaches away from the currently claimed invention.

The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 14-1437, referencing Attorney Docket No.: 7298.098.NPUS02.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner may directly contact the undersigned by phone to further the discussion.

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Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Tracy W. Druce". The signature is fluid and cursive, with the first name "Tracy" and last name "Druce" clearly distinguishable.

Tracy W. Druce, Esq.
Reg. No. 35,493